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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,525	08/29/2001	Henry Michael Hadden	431177.80015	4577

23935 7590 09/21/2007
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EXAMINER

SUTTON, ANDREW W

ART UNIT	PAPER NUMBER
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3765

MAIL DATE	DELIVERY MODE
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09/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/941,525

Applicant(s)

HADDEN ET AL.

Examiner

Andrew W. Sutton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34 and 36-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34 and 36-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 5/07/07 have been fully considered but they are not persuasive. The applicant argues that Dym does not teach the device is "capable of repeated reshaping and reformation by hand," as the amended claim states. The examiner disagrees as thermoplastic and wire are both capable of being reshaped and reformed as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34, 38, 39, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dym (US 2,123,275). Dym illustrates in Fig. 9 a brim-reinforcing member 6 comprising a wire fabric 11 with a thermoplastic resin coating 12 the wire fabric 11. Dym does not teach the wire fabric being incorporated into the brim of the hat as shown in Fig. 8 as it only protect the top portion of the crown of the hat. It would have been obvious to one of ordinary skill in the art to add the wire cloth throughout the entire hat including the brim portion 6 of the hat to provide an increased protection from the wire reinforcement. This would mean that the reinforcement member would be in the shape

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of a hat brim 6 as claimed. State above, the examiner feels that the thermoplastic resin of Dym would meet the claim as all materials are bendable without fracturing to a degree and the applicant fails to state what degree is claimed. Secondly, Dym does not explicitly state the use of metal, but discloses (pg. 2 Col 1 line 58) that the fabric is made of wire or screen. It would have been obvious to one of ordinary skill in the art to make the fabric out of metal as metal is a commonly used material to make both wire and screen. Any metal chosen would be malleable, ductile, and have plasticity as claimed as no degree of the properties were claimed. Any metal would have those properties to a degree. The examiner feels the material of Dym is capable of being reshaped and reformed by hand.

As to claim 39, it would be inherent that the wire frame of the invention disclosed above would be in a pattern following the contour lines of the brim.

Claims 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dym (US 2,123,275) in view of Wright (US 985,488). Dym discloses the device substantially above. Dym does not teach the reinforcing member being covered on either the top or bottom. Wright illustrates a brim reinforcement member b (Fig. 1) being covered on the top and bottom by as shown in Fig. 3. It would have been obvious to one of ordinary skill in the art to combine the teachings of Dym and Wright to provide a more aesthetically pleasing hat by covering the reinforcement member of Dym with the covering of Wright, as the reinforcement member would be covered by a more appealing covering.

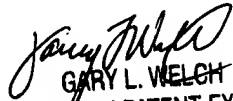
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew W. Sutton whose telephone number is (571) 272-6093. The examiner can normally be reached on Monday - Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AWS
5/26/07


GARY L. WELCH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700